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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/058,496
Filing Date: April 10, 1998
Appellant(s): MICHAUD ET AL.

Jennifer A. Zanocco
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 27, 2004.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

Mapedit Imagemap Editing Software (hereinafter Mapedit), Version 2.3 for Windows 3.1, 1997 by Boutell.Com, Inc. URL: http://www.boutell.com/mapedit, pp.1-23

6,034,689	WHITE ET AL.	3-2000
5,991,781	NIELSEN	11-1999
5,956,701	HABERMEHL	9-1999

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-5, 7-9, 12-13, 20-22, 29-30, 35-36, 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mapedit Imagemap Editing Software (hereinafter Mapedit), Version 2.3 for Windows 3.1, 1997 by Boutell.Com, Inc. URL: http://www.boutell.com/mapedit, pp.1-23, in view of White et al. (hereinafter White), U.S. Patent No. 6,034,689 issued March 2000.

In regard to independent claim 1, Mapedit teaches user selection of various regions, as well as an image (artwork) containing non-transparent, as well as transparent regions within an image (Mapedit Figures 17, 18). Mapedit also teaches image mapping of a selected file (Mapedit Figure 9 paragraph 1,2). Mapedit does not specifically teach a graphic file containing layers, as claimed. However, Mapedit teaches the saving of

edited overlapping (layered) image regions, providing the claimed equivalent of a layered graphics file (Mapedit Figures 17-19). Mapedit also teaches selection of an overlapping image, resulting in a "translucent" image (reflecting data used by the selected portion to determine a degree of opacity), said translucent image is used to identify the selected image accordingly (see Mapedit pages 17, 18) (compare the above with claim 1 "*A method comprising: receiving....a layer in an electronic artwork having....including opacity data*", and "*using the opacity data of the selected layer to identify one or more non-transparent regions*"). It would have been obvious to one of ordinary skill in the art at the time of the invention to interpret the above teachings as inputting image-mapped (layered) graphics files, providing Mapedit the benefit of reopening and editing such files.

Mapedit teaches portioned areas of a graphic file, with a specific URL assigned to each portion so as to activate a URL when an area is selected. Mapedit also teaches a non-transparent region defining a hot spot region, as well as user selection of a region, as well as an image containing non-transparent, as well as transparent regions within an image (Mapedit Figures 4, 5, 10, 17, 18; compare with claim 1 *"calculating a perimeter boundary of the one or more non-transparent regions;"* and *"assigning an action to the area, the action defining a function that is to be activated when the area is selected."*).

Mapedit does not specifically teach defining an area by automatically determining a perimeter boundary. However, White teaches automatic rescaling of an image map area subsequent to resizing of a Web page to fit different display areas (White column 15 lines 24-37; compare with claim 1 *"using the perimeter boundary to define an area in the selected layer"*). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the method of White to the method of Mapedit, because of White's taught advantage of scaling, providing a way for Mapedit to create imagemaps for different presentation mediums by automatically defining image map boundaries subsequent to changes in size of an imagemap.

Mapedit teaches an image map, whereby a selected region (area) is selected, resulting in an action mapped from said region corresponding to a portion of an image (Mapedit Figure 17; compare with claim 1 "*associating the area and the action with the selected layer as a property of the selected layer in the electronic artwork*").

In regard to dependent claim 2, Mapedit teaches a method of assigning a URL to a selected region (Mapedit Figure 5).

In regard to dependent claim 3, Mapedit teaches compositing of images (Mapedit Figure 17).

In addition, Mapedit teaches a method of converting a hotspot area along with associated URLs to an HTML file format (Mapedit Figure 16; compare with claim 3 "*converting the area and the action to a target output format.*").

In regard to dependent claim 4, Mapedit teaches a method of converting a hotspot area along with associated URLs to an HTML file format (Mapedit Figure 16).

In regard to independent claim 5, claim 5 reflects the computer program product comprising computer readable instructions used for implementing the methods as claimed in claim 1, and is rejected along the same rationale.

In regard to dependent claims 7 and 8, claims 7 and 8 reflect the computer program product comprising computer readable instructions used for implementing the methods as claimed in claims 3 and 4, respectively, and are rejected along the same rationale.

In regard to dependent claim 9, Mapedit teaches a method whereby a mapped image is presented (Mapedit Figure 17). Mapedit does not specifically teach the saving of a composited image as an image file. However, since Mapedit teaches the presentation and saving of an image with different mapped layers, with both said image and said layers reproducible within the Mapedit editor environment, it would have been obvious

to one of ordinary skill in the art at the time of the invention to save said layers as an image file, because of Mapedit's taught advantage of the presentation and saving of layers with images.

In addition, Mapedit teaches a method of saving an HTML file including an associated graphics file and a hotspot with associated URLs (Mapedit Figures 2, 16).

In regard to dependent claim 12, Mapedit teaches a method whereby areas of edited graphic file are portioned with a specific URL assigned to each bounded portion so as to activate a URL when an area is selected, said area of bounded portion displayed in reverse color when activated (Mapedit Figures 4, 5, 10). Mapedit does not specifically teach a method of conforming the area automatically to content of the selected layer subsequent to editing of said layer. However, White teaches the rescaling of an image map area subsequent to the resizing of a web page to fit different display areas (White column 15 lines 24-37; compare with claim 12 *"conforming the area automatically to content of the selected layer"*). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the method of White to the method of Mapedit, because of White's taught advantage of scaling, providing a way for preserving an image map subsequent to changes in size of the the edited imagemap method as taught by Mapedit.

In regard to dependent claim 13, Mapedit teaches the calculation of dynamic content for a selected layer before the area is calculated, since it is known in the art that currently edited information is considered dynamic information until saved, Mapedit's calculation and formulation of hotspots is based upon dynamic content, prior to saving.

In regard to dependent claims 20, 21, 22, claims 20, 21, 22 reflect the computer program product comprising computer readable instructions used for implementing the methods as claimed in claims 11, 12, 13, respectively, and are rejected along the same rationale.

In regard to dependent claim 29, Mapedit teaches an artwork graphic as an image file, as well as an HTML file with image map and URL (Mapedit Figure 2).

In regard to dependent claim 30, Mapedit teaches an action as a URL (Mapedit Figure 5).

In regard to dependent claim 35, Mapedit teaches determination of a perimeter of a non-transparent region, the area of which is assigned a hyperlink (Mapedit page 5).

In regard to dependent claim 36, Mapedit teaches creation of circular region 1, said region remaining unassigned to a hyperlink, with another circular region 2 created and defined as a superset of region 1, with said region 2 assigned an address of the USPTO home page (Mapedit pages 20-21). As the imagemap becomes active, the unassigned circular region 1 becomes a "hole" (an unassigned region) within the perimeter of the USPTO circular region 2 (Mapedit pages 22-23), yet is still part of the area of the overall circular region 2.

In regard to dependent claims 42, 43, claims 42, 43 reflect the computer program product comprising computer readable instructions used for implementing the methods as claimed in claims 35, 36, respectively, and are rejected along the same rationale.

Claims 15-16, 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mapedit and White as applied to claims 1 and 5 above, and further in view of Nielsen, U.S. Patent No. 5,991,781 issued November 1999.

In regard to dependent claim 15, claim 15 incorporates substantially significant subject matter as claimed in claim 1, and in further view of the following, is rejected along the same rationale.

Mapedit teaches multiple hot spot regions within an image (Mapedit Figure 5; compare with claim 15 "*the selected layer has two or more non-contiguous*", and "*...in a transparent frame*"). Mapedit does not specifically teach the inclusion of two or more non-transparent regions. However, Nielsen teaches at least two non-transparent regions (Nielsen Figures 1b, 11; compare with claim 15 "*...non-transparent...*"). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the method of Nielsen to the method of Mapedit, because of Nielsen's taught advantage of non-transparent images, providing an alternate way to show regions within an image.

In addition, Mapedit teaches multiple hot spot regions within an image, said regions can encompass the entire image (Mapedit Figure 5; compare with claim 15 "*the area defined....regions in combination*").

In regard to dependent claim 16, claim 16 incorporates substantially significant subject matter as claimed in claim 15, and in further view of the following, is rejected along the same rationale.

Mapedit teaches a method whereby multiple image maps can be defined in different areas of an image (Mapedit Figure 4; compare with claim 16 line 2, *"generating multiple image maps"*).

In regard to dependent claims 24-25, claims 24-25 reflect the computer program product comprising computer readable instructions used for implementing the methods as claimed in claims 15-16, respectively, and are rejected along the same rationale.

Claims 6, 28, 31-34, 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mapedit and White as applied to claim 1 above, and further in view of Habermehl, U.S. Patent No. 5,956,701 issued September 1999.

In regard to dependent claim 6, Mapedit teaches a method of creating a polygon-shaped area on a graphics file by creating boundaries via a mouse, said boundaries created until an enclosed polygon is created,

said area within said enclosed polygon reverses color when subsequently activated via said mouse (Mapedit Figure 5, 10, 12). Mapedit does not specifically teach calculating hot spot areas by utilizing perimeter boundaries. However, Habermehl teaches defining hot spot areas taking into account the boundaries of an area, said defining accomplished via neural net (Habermehl column 3 lines 35-40, Figures 3, 6). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Habermehl to Mapedit, because of Habermehl's taught advantage of calculating areas, providing a way for defining portions of an image using fewer inputs and less redundancy to Mapedit (Habermehl column 2 lines 59-61).

In regard to dependent claim 28, claim 28 reflects the method comprising computer readable instructions used for implementing the computer program as claimed in claim 6, and are rejected along the same rationale.

In regard to dependent claims 31-34, Mapedit teaches user selection of a shape (i.e. circle, rectangle, polygon) Mapedit page 8; compare with claims 31-34).

In regard to dependent claims 38-41, claims 38-41 reflect the computer program product comprising computer readable instructions used for implementing the methods as claimed in claims 31-34, respectively, and are rejected along the same rationale.

(11) Response to Argument

Beginning on page 4 of the appeal brief (hereinafter the brief), Appellant argues the following issues which are accordingly addressed below.

a. "*Mapedit and White do not teach or disclose 'receiving from a user an input selecting a layer in an electronic artwork having a plurality of layers, each layer including image data, the image data of the selected layer including opacity data;' and 'using the opacity data of the selected layer to identify one or more non-transparent regions.*' (pages 4-5 of the brief).

The examiner respectfully disagrees. Mapedit is an editor for creating image maps containing hotspots associated with URLs. A user creates an image map file by drawing polygons representing hotspot regions on top of a base image. When a saved image map is reopened in this editor, the mapped polygon regions display themselves over the base image accordingly, producing an overall "electronic artwork". Mapedit Figure 17 shows a base image with two overlapping rectangular (hotspot) regions. These overlapping regions can be considered "layers" over the base image (which itself can be interpreted as a "base layer". This is reinforced by Mapedit's teaching (Mapedit Figure 12) that the oldest hotspot gets the click. In other words, each region becomes active as it is selected, therefore separate and distinct layering of regions are used.

Since Mapedit teaches displaying reverse video of a region when said region (layer) is selected, the area within the boundary of said region can be fairly interpreted as containing "image data" so that reverse video can take place.

Appellant argues that the cited references do not teach "opacity data". Appellant describes opacity data as the amount of a layer below a given layer that appears in a final composited image (i.e. an opacity value) (page 5 of the brief). It is respectfully noted that, although Appellant describes opacity in the context of acetate layering, nevertheless, representative claim 1 does not limit "opacity data" to that of Appellant's explanation, nor does claim 1 claim ink, acetate sheets, etc.. Instead, since claim 1 claims an "electronic" artwork, the images and regions in question are interpreted as electronic images. In addition, since claim 1 does not specify any degree (or range) of opacity, the examiner respectfully maintains that translucency is a "degree" of opaqueness, and likewise, is "non-transparent". Mapedit's teaching of reverse video regions, along with "translucency" (in the overlapping area) (Mapedit Figure 16 and 17) show that the image data within the selected region turns dark

and translucent in said overlapping area, therefore teaching that the opacity data (data relating to opacity – the changes of color) is used after user selection of a region to visually identify a "non transparent" region (said selected region is also not necessarily transparent to the base image layer).

It is respectfully submitted that Mapedit's hotspots are identified by the combination of user selection and the resulting changes in color that occur subsequent to said user selection. This identifies the region as a selected region.

b. "*Mapedit and White do not teach or disclose 'calculating a perimeter boundary of the one or more non-transparent regions.*" (pages 6-7 of the brief).

The examiner respectfully disagrees. Both Mapedit and White belong to the same general field of endeavor (image map creation – see White Abstract, at bottom). Appellant appears to argue that claim 1 claims that a perimeter boundary is calculated only after selection of an identified layer (using opacity data), and that this boundary is then used to define the region. However, it is respectfully submitted that claim 1 does not preclude a boundary from being defined from the beginning of the claim (it is unclear to the examiner how a user can initially select a layer if there is no boundary to define it). Mapedit teaches user defined regions via creation of polygon boundaries (Mapedit Figures 17, 18). Clearly, Mapedit suggests a layer defined by a perimeter boundary. However, since Mapedit does not specifically recite that the boundary "defines an area" in a layer, White is used to explicitly teach this limitation. In order to accommodate changes in size (i.e. re-editing Mapedit's polygon boundary layers), White re-scales the boundaries so as to fit a newly sized region accordingly. The new boundary defines the new area, and is applied to Mapedit's polygon boundaries, since Mapedit's polygon selection can also involve resizing of said polygon.

c. "*Mapedit and White do not teach or disclose compositing controls.*" (pages 7-8 of the brief).

The examiner respectfully disagrees. Mapedit teaches a base image along with user created (mapped) polygon areas, said areas subject to opacity analysis as explained above. A user of Mapedit uses various controls to create a finished composite product. The different images ultimately work as a final combined group, therefore the final image map can be fairly interpreted as a final composited image, made up of many separate images which are presented as a whole. It is respectfully submitted that Appellant is reading the specification into the claimed limitations. Claim 3 defines compositing as "... *combining the plurality of layers to produce a final image*".

d. "*Mapedit and White do not teach or disclose re-defining an area automatically if the content of the selected layer of the electronic artwork is edited.*" (page 8 of the brief).

The examiner respectfully disagrees. White teaches automatic re-scaling of an image map area subsequent to resizing of a web page. This teaching is applied to Mapedit's editing capability so that a user who resizes a polygon region will automatically have the hotspot area recalculated and re-defined accordingly.

e. "*Mapedit and White do not teach or disclose calculating any dynamic content for the selected layer before the area is defined.*" (page 9 of the brief).

The examiner respectfully disagrees. The combination of Mapedit and White teaches automatic recalculation of areas and boundaries subsequent to a resizing of a hotspot layer. It is generally known that prior to saving data, the editing of data content (resizing areas etc.) is held in a computer's RAM buffer memory, and

can be fairly interpreted as "dynamic". Claim 13 states in pertinent part "*calculating any dynamic content for the selected layer when the layer is composited*". The combination of Mapedit and White teaches automatic recalculation, etc. of areas pursuant to a user dynamically editing the size of polygon regions. A user then finalizes by saving a composited image as an image map.

f. "*Mapedit and White do not teach or disclose that the perimeter boundary is for the one or more non-transparent regions in combination.*" (pages 9-10 of the brief).

The examiner respectfully disagrees. Appellant is ignoring the presence of a Boolean OR within claim 35, therefore a perimeter boundary can be for one non-transparent region. The combination of Mapedit and White teaches this limitation, as explained above, and in the instant rejection of claim 35, and claim 1.

g. "*Mapedit and White do not teach or disclose that holes included within the perimeter boundary are included in the area.*" (pages 10-11 of the brief)

The examiner respectfully disagrees. Appellant is arguing the specification. Claim 36 merely claims a "hole" within a non-tranparent region. Mapedit teaches a hole within a user defined hotspot area. Mapedit Figure 22 and 23 show a user defined hole within a larger user defined area (Figure 23 in particular shows a non-transparent region). Since the smaller hole never touches the perimeter of the larger circular region, the smaller hole is ignored when calculating the larger region boundary.

h. "*Mapedit, White and Nielsen do not teach or disclose that an area is defined by automatically determining a perimeter boundary of two or more non-contiguous regions in combination.*" (page 11 of the brief).

"*Mapedit, White and Habermehl do not teach automatically fitting a shape to a perimeter boundary.*" (page 12 of the brief).

The examiner respectfully disagrees. Neilsen teaches at least two non-contiguous regions, which when treated as a whole, define a perimeter boundary. Habermehl teaches automatically fitting a shape to a boundary, as recited in the rejection of claim 6. In addition, further support can be found in Mapedit, since a user of Mapedit creates a polygon perimeter via mouse dragging, once said user releases said mouse, the resulting creation of an area suggests automatically fitting a polygon shape to its user defined boundary.

i. "*Claims 37 and 44 are not properly objected to.*" (page 12 of the brief)

Appellant's arguments regarding claims 37 and 44 are moot in view of the examiner's indication of said claims as allowable subject matter. They are properly objected to.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

William L. Bashore

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PRIMARY EXAMINER

April 18, 2005

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